

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ANN ARBOR CENTER FOR INDEPENDENT) LIVING INC.; MAURICE L. JORDAN,) JOYCE LYKE, LuANNE BULLINGTON;) RICK BAISDEN; DEBORAH PATTERSON) DANIEL HAWKINS; and ANGIE CARLSON;) on behalf of themselves and) all others similarly situated,) Plaintiffs,) v.) CITY OF YPSILANTI, MICHIGAN,) Defendants.)	Case No: 05-60116 HON: JOHN C. O'MEARA MAG. JUDGE MONA MAJZOUB
---	--

John Barr
Barr, Anhut & Gilbreath
105 Pearl Street
Ypsilanti, MI 48197
(734) 483-9642

J. Mark Finnegan (P68050)
Denise M. Heberle (P64145)
HEBERLE & FINNEGAN PLLC
2580 Craig Road
Ann Arbor, MI 48103
(734) 302-3233

David K. Otis ((P31627)
PLUNDETT & COONEY
325 E. Grand River Ave, Ste 250
East Lansing, MI 48823
(517) 324-5612
Attorney for Defendant Ypsilanti

Attorney for Plaintiffs

SECOND CONSENT DECREE AND PARTIAL SETTLEMENT

WHEREAS on March 16, 2006 the Court entered the First Consent Decree and Partial Settlement in this matter; and,

WHEREAS since then the parties entered into significant settlement negotiations and the parties have reached resolution of a portion of the lawsuit.

THEREFORE, the parties agree and the Court hereby enters the following Second Consent Decree and Partial Settlement.

1. This Consent Decree will in no way affect any of the provisions of the First Consent Decree and Partial Settlement, except as follows;

2. **Changes to Paragraph 4 of the First Consent Decree and Partial Settlement:** Paragraph 4 of the First Consent Decree shall now read: **Listing of Projects Undertaken After January 1992.** On or before September 15, 2006, City of Ypsilanti will deliver to plaintiffs' Counsel a listing of all such construction, alteration or resurfacing performed in Ypsilanti during year February 1992 through year 2005, and the listing shall include the locations of any intersections of any such altered or resurfaced streets, roads, highways, sidewalks and paths. The listing shall include a statement of whether the City believes that each of the curb ramps at those intersections meet the ADA-ADAAG standards set out in paragraph 1 above, and if they do not how the City believes that they do not.¹ The City will also state whether or not it intends to replace any non-conforming ramp or to leave it in place. The listing will also state the location of any missing ramps. Any such listing will include a signed sworn certification that the City of Ypsilanti has researched its records and that the listing is true and correct.

3. **Attorneys Fees and Costs to Date.** Within fifteen days of the entry of this Order, the City of Ypsilanti shall pay \$5,274.63 to Heberle & Finnegan, PLLC, and \$1,690.98 to paralegal Megan Buffington. These amounts will be payment in full for all fees and costs claimable by plaintiffs in this matter from December 10, 2005 up to July 12, 2006. By paying these amounts, the City of Ypsilanti in no way admits liability for

¹

For purposes of this Consent Decree, the parties agree that as to detectable warnings, the beginning date shall be January 2003, the date the Michigan Department of Transportation first began requiring detectable warnings, and that the Michigan DOT standards shall be controlling as to the proper size and orientation of the truncated domes.

any future payments, and plaintiffs do not waive any claims for payments for future fees and costs that may be incurred.

4. **Consideration for This Consent Decree.** The parties understand that this is not intended as a resolution of the entire lawsuit, but rather only as to a part of it. The parties and their Counsel, by entering into this Consent Decree, expressly agree that in exchange for the successful completion of each of the terms of the Consent Decree, that plaintiffs shall forbear from seeking preliminary injunctive relief for these issues.

5. **Retention of Jurisdiction.** The parties agree that the Court shall retain jurisdiction to enforce any and all terms of this Consent Decree.

Read on This 21st Day of July 2006 and Approved for Form by:

/s/ David K. Otis (with permission)
John Barr
Barr, Anhut & Gilbreath
105 Pearl Street
Ypsilanti, MI 48197
(734) 483-9642

David K. Otis (P31627)
PLUNDETT & COONEY
325 E. Grand River Ave, Ste 250
East Lansing, MI 48823

Attorneys for Defendant

/s/ J. Mark Finnegan
J. Mark Finnegan (P68050)
Denise M. Heberle (P64145)
HEBERLE & FINNEGAN PLLC
2580 Craig Road
Ann Arbor, MI 48103
(734) 302-3233

Attorneys for All Plaintiffs

All parties having agreed, and the Court having reviewed it and found it equitable, **IT IS HEREBY ORDERED** that this Second Consent Decree and Partial Settlement is **ENTERED** this 31st day of July, 2006.

s/John Corbett O'Meara
United States District Court